

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JUSTIN COSTELLO and
DAVID FERRARO

Defendants.

Case No.: 2:22-cv-01388-RSM

**REQUEST FOR ENTRY OF
DEFAULT AGAINST
DEFENDANT JUSTIN
COSTELLO**

**NOTE ON MOTION CALENDAR
JANUARY 24, 2023**

Plaintiff Securities and Exchange Commission (the “Commission”), hereby requests an Entry of Default against defendant Justin Costello (“Costello”).

I. RELIEF REQUESTED

The Commission seeks an entry of default order as set forth below against Costello.

II. STATEMENT OF FACTS

The Commission filed this action on September 29, 2022. *See* Declaration of Pascale Guerrier (“Guerrier Decl.”) ¶ 4. On December 12, 2022, Costello was served with the Summons and Complaint by a detective of the King County Sheriff’s Office, by personal service at the SeaTac Federal Detention Center, 2425 S 200th Street, Seattle, Washington 98198 where he is being detained in connection with the related criminal case pending before the Court. *Id.* Costello had 21 days from the date of service to serve the Commission’s counsel with an answer to the Complaint or motion under Rule 12 of the Federal Rules of Civil Procedure. Costello has failed to appear, answer, plead or otherwise defend against the Commission’s Complaint. Guerrier Decl. ¶ 6.

III. STATEMENT OF THE ISSUE

Whether Default should be entered against Costello, when he has failed to appear, plead or otherwise defend against the Commission’s Complaint.

Yes.

IV. EVIDENCE RELIED UPON

The Commission relies upon the Declaration of Pascale Guerrier, as well as the court files and pleadings in this matter.

V. LEGAL AUTHORITY

This motion is made pursuant to Local Civil Rule 55, which states in pertinent part:

(a) Entry of Default. Upon motion by a party noted in accordance with LCR 7(d)(1) and supported by affidavit or otherwise, the clerk shall enter the default of any party against whom a judgment for affirmative relief is sought but who has failed to plead or otherwise defend. The affidavit shall specifically show that the defaulting party was served in a manner authorized by Fed. R. Civ. P. 4. A motion for entry of default need not be served on the defaulting party....

1 Here, Costello was served on December 12, 2022 and failed to appear, answer, plead or
2 otherwise defend himself against the Commission's complaint, and the time to do so expired on
3 January 2, 2023. Guerrier Decl. ¶¶ 4, 6. Accordingly, the Commission contends that it is
4 entitled to entry of a default against Costello.

5 VI. CONCLUSION

6 Based on the foregoing, the Commission requests that the Court enter a default against
7 Costello.

8 VII. PROPOSED ORDER

9 A proposed order of default granting the relief requested accompanies this motion.

10
11 Dated: January 24, 2023

12 Respectfully submitted,

13 /s/ Pascale Guerrier

14 Pascale Guerrier

15 Conditionally Admitted Pursuant to LCR
83.1(c)(2)

16 Securities and Exchange Commission

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17 New York, NY 10004-2616

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18 Email: guerrierp@sec.gov

Attorney for Plaintiff Securities and

Exchange Commission

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2023, I electronically filed the foregoing and a proposed order with the Clerk of the Court using the CM/ECF system, and caused to be mailed by United States Postal Service First Class Mail, the foregoing and the proposed order to the following:

Justin Costello
SeaTac Federal Detention Center
2425 S 200th Street
Seattle, Washington 98198

David Ferraro
926 Gilbert Street
Radford VA 24141

/s/ Pascale Guerrier
Pascale Guerrier
Conditionally Admitted Pursuant to LCR
83.1(c)(2)
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*Attorney for Plaintiff Securities and
Exchange Commission*